

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 30473 of 2007(C)

PETITIONER:

**THE PRINCIPAL,
CENTURY COLLEGE OF NURSING,
POINACHI, KASARGOD DIST.**

**BY ADV. SRI.A.MOHAMED MUSTAQUE
SRI.M.K.SUMOD**

RESPONDENTS:

- 1. THE CONTROLLER OF EXAMINATIONS,
UNIVERSITY OF KANNUR,
KANNUR UNIVERSITY CAMPUS,
KANNUR.**
- 2. THE REGISTRAR,
KANNUR UNIVERSITY.**
- 3. THE UNIVERSITY OF KANNUR,
REPRESENTED BY ITS REGISTRAR,
KANNUR UNIVERSITY, KANNUR.**

BY ADV. SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY for R1 to R3

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Kss

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE ORDER NO.F2.ACAD.A1/3226/CCN/2003 DTD. 21/06/2004 ISSUED BY THE 2ND RESPONDENT.**
- EXT.P2: COPY OF THE NOTIFICATION NO.B11-1/NG/2007 DTD. 23/08/07 ISSUED BY THE 1ST RESPONDENT.**
- EXT.P3: COPY OF THE INTIMATION GIVEN TO THE PETITIONER TO THE 1ST RESPONDENT WITH REF.NO.CCN/0110/003/007 DTD. 3/10/07.**
- EXT.P4: COPY OF THE COVERING LETTER DTD. 5/09/07.**
- EXT.P5: COPY OF THE TIME TABLE ISSUED BY THE 1ST RESPONDENT.**
- EXT.P6: COPY OF THE LETTER OF APPOINTMENT WITH REF.NO.EXCLL/2/ ADDL.C.S./2007 DTD. 3/10/07.**
- EXT.P7: COPY OF THE LETTER DTD. 9/10/07 OF THE 1ST RESPONDENT.**
- EXT.P8: COPY OF THE LETTER DTD. 18/03/2006.**
- EXT.P9: COPY OF THE CERTIFICATE ISSUED BY INDIAN NURSING COUNCIL NEW DELHI DTD. 5/5/2006.**
- EXT.P10: COPY OF THE LETTER DTD. 10/05/2006 OF THE KANNUR UNIVERSITY.**
- EXT.P11: COPY OF THE LETTER OF THE PETITIONER DTD. 19/05/2006.**
- EXT.P12: COPY OF THE LETTER OF THE KERALA NURSES & MIDWIVES COUNCIL, TRIVANDRUM DTD. 15/11/06.**
- EXT.P13: COPY OF THE LETTER OF THE PETITIONER COLLEGE DTD.3/03/07.**
- EXT.P14: COPY OF THE REQUEST MADE BY THE PETITIONER COLLEGE FOR AFFILIATION DTD. 30/03/06.**
- EXT.P15: COPY OF LIST OF STUDENTS FOR THE YEAR 2006-2007.**
- EXT.P16: COPY OF THE ORDER NO.T.5289/02/NC/DTT. 17/10/07 ISSUED BY KERALA NURSES & MIDWIVES COUNCIL.**
- EXT.P17: COPY OF THE REQUEST MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 22/10/2007.**

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WPC.NO.30473/2007 C

2ND RESPONDENT'S EXHIBITS:

- EXT.R2(A): COPY OF THE COMMUNICATION DTD. 20/06/2006 ISSUED BY THE UNIVERSITY TO THE PETITIONER.**
- EXT.R2(B): COPY OF THE COMMUNICATION DTD. 22/12/2006 ISSUED BY THE UNIVERSITY TO THE PETITIONER.**
- EXT.R2(C): COPY OF THE ORDER DTD. 13/02/2007 ISSUED BY THE KERALA NURSES AND MIDWIVES COUNCIL.**
- EXT.R2(D): COPY OF THE COMMUNICATION FROM THE GOVERNMENT TO THE UNIVERSITY.**

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) NO.30473 OF 2007 C

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Dated this the 28th day of November, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext.P7 and to allow the students of the petitioner's college to write the examination to be conducted as per Ext.P5 time table. In this case, interim orders were passed on 15/10/07 and 5/11/2007 taking into account the last minute intimation received by the petitioner rendering the students ineligible for participating in the examination. In view of the subsequent development particularly Ext.P16 proceedings of the Kerala Nurses and Midwives Council, Trivandrum, what is required to be done is that the University has to decide the petitioner's application for affiliation and take a decision thereon. Since, by the time the interim orders were passed, the 1st part theory paper examination was over, an arrangement in this respect also has to be made.

2. In view of the above, I direct that the 3rd respondent University shall consider petitioner's application for affiliation

taking into account Ext.P16 order passed by the Kerala Nurses and Midwives Council, Trivandrum also. This the University shall do within four weeks of receipt of a copy of this judgment.

3. Now what remains is the practical examination of the first part, for which the students in question could not appear. There is controversy between the counsel for the petitioner and the 3rd respondent about the factual position whether the students have appeared or not. While the petitioner asserts that the students have appeared for the practicals, counsel for the University says otherwise. The contention of the University is that the students can appear for the practicals only after appearing for the theory paper, which they have not. According to him, by the time order dated 15/10/07 and 5/11/07 were passed, since the first part theory paper examination was already over the students could not appear for the theory paper and consequently they did not appear for practicals also.

4. In view of the divergence in the submissions made by the counsel as stated above, I direct that if University's decision is to grant affiliation and if the students have already appeared for the practicals as asserted by the counsel for the petitioners,

that will be treated as regular. The other papers they have appeared in the examination will also be treated as regular. However, in so far as the first part theory is concerned, students will be permitted to appear when the next examination is held and if they have to appear for the practicals, that will also be allowed.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

Rp